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date the suspension order is issued. Within this time a suspended individual may request a stay of the sanction from the appropriate reviewing tribunal pending appeal. No responses to the stay request from other parties will be entertained. If a timely stay request is filed, the suspension shall be stayed until the reviewing tribunal rules on the motion. The stay request shall be in writing and contain the information specified in §2.788(b) (1), (2) and (3) of this part. The Commission shall rule on the stay request within 10 days after the filing of the motion. The Commission shall consider the factors specified in §2.788(e) (1) and (2) of this part in determining whether to grant or deny a stay application.

[45 FR 69878, Oct. 22, 1980, as amended at 56 FR 29408, June 27, 1991]

§2.714 Intervention.

(a)(1) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition for leave to intervene. In a proceeding noticed pursuant to §2.105, any person whose interest may be affected may also request a hearing. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, or as provided in §2.102(d)(3). Nontimely filings will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors in addition to those set out in paragraph (d)(1) of this section:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(2) The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (d)(1) of this section, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

(3) Any person who has filed a petition for leave to intervene or who has been admitted as a party pursuant to this section may amend his petition for leave to intervene. A petition may be amended without prior approval of the presiding officer at any time up to fifteen (15) days prior to the holding of the special prehearing conference pursuant to §2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference. After this time a petition may be amended only with approval of the presiding officer, based on a balancing of the factors specified in paragraph (a)(1) of this section. Such an amended petition for leave to intervene must satisfy the requirements of this paragraph (a) of this section pertaining to specificity.

(b)(1) Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to §2.751a, or if no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his or her petition to intervene that must include a list of the contentions which petitioner seeks to have litigated in the hearing. A petitioner who fails to file a supplement that satisfies the requirements of paragraph (b)(2) of this section with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in paragraph (a)(1) of this section.

(2) Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide the following information with respect to each contention:

(i) A brief explanation of the bases of the contention.

(ii) A concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing, together with references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion.

(iii) Sufficient information (which may include information pursuant to paragraphs (b)(2) (i) and (ii) of this section) to show that a genuine dispute exists with the applicant on a material issue of law or fact. This showing must include references to the specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. On issues arising under the National Environmental Policy Act, the petitioner shall file contentions based on the applicant's environmental report. The petitioner can amend those contentions or file new contentions if there are data or conclusions in the NRC draft or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's document.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene or a supplement thereto within ten (10) days after service of the petition or supplement, with particular attention to the factors set forth in paragraph (d)(1) of this section. The staff may file such an answer within fifteen (15) days after service of the petition or supplement.

(d) The Commission, the presiding officer, or the Atomic Safety and Licens-

ing Board designated to rule on petitions to intervene and/or requests for hearing shall permit intervention, in any hearing on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area, by the State in which such area is located and by any affected Indian Tribe as defined in part 60 or 63 of this chapter. In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for a hearing, consider the following factors, among other things:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

(e) If the Commission or the presiding officer determines that any of the admitted contentions constitute pure issues of law, those contentions must be decided on the basis of briefs or oral argument according to a schedule determined by the Commission or presiding officer.

(f) An order permitting intervention and/or directing a hearing may be conditioned on such terms as the Commission, presiding officer or the designated atomic safety and licensing board may direct in the interests of:

(1) Restricting irrelevant, duplicative, or repetitive evidence and argument,

(2) Having common interests represented by a spokesman, and

(3) Retaining authority to determine priorities and control the compass of the hearing.

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(g) In any case in which, after consideration of the factors set forth in paragraph (d)(1) of this section, the Commission or the presiding officer finds that the petitioner's interest is limited to one or more of the issues involved in the proceeding, any order allowing intervention shall limit his participation accordingly.

(h) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (f) of this section.

(i) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

(j) The provisions of this section do not apply to license applications docketed under subpart J of this part.

[37 FR 15132, July 28, 1972, as amended at 37 FR 28711, Dec. 29, 1972; 39 FR 17972, May 22, 1974; 43 FR 17801, Apr. 26, 1978; 44 FR 4459, Jan. 22, 1979; 51 FR 27162, July 30, 1986; 54 FR 14944, Apr. 14, 1989; 54 FR 23740, June 2, 1989; 54 FR 33180, Aug. 11, 1989; 54 FR 39728, Sept. 28, 1989; 66 FR 55788, Nov. 2, 2001; 67 FR 20885, Apr. 29, 2002]

§ 2.714a Petitions for review of certain rulings on petitions for leave to intervene and/or requests for hearing.

(a) Notwithstanding the provisions of § 2.730(f), an order of the presiding officer or the atomic safety and licensing board designated to rule on petitions for leave to intervene and/or requests for hearing may be appealed, in accordance with the provisions of this section, to the Commission within ten (10) days after service of the order. The appeal shall be asserted by the filing of a notice of appeal and accompanying supporting brief. Any other party may file a brief in support of or in opposition to the appeal within ten (10) days after service of the appeal. No other appeals from rulings on petitions and/or requests for hearing shall be allowed.

(b) An order wholly denying a petition for leave to intervene and/or request for a hearing is appealable by the petitioner on the question whether the petition and/or hearing request should have been granted in whole or in part.

(c) An order granting a petition for leave to intervene and/or request for a hearing is appealable by a party other

than the petitioner on the question whether the petition and/or the request for a hearing should have been wholly denied.

[37 FR 28711, Dec. 29, 1972, as amended at 43 FR 17802, Apr. 26, 1978; 56 FR 29408, June 27, 1991]

§ 2.715 Participation by a person not a party.

(a) A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making oral or written statement of his position on the issues at any session of the hearing or any prehearing conference within such limits and on such conditions as may be fixed by the presiding officer, but he may not otherwise participate in the proceeding.

(b) The Secretary will give notice of a hearing to any person who requests it prior to the issuance of the notice of hearing, and will furnish a copy of the notice of hearing to any person who requests it thereafter. When a communication bears more than one signature, the Commission will give the notice to the person first signing unless the communication clearly indicates otherwise.

(c) The presiding officer will afford representatives of an interested State, county, municipality, Federally-recognized Indian Tribe, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issue. Such participants may also file proposed findings and exceptions pursuant to §§ 2.754 and 2.762 and petitions for review by the Commission pursuant to § 2.786. The presiding officer may require such representative to indicate with reasonable specificity, in advance of the hearing, the subject matters on which he desires to participate.

(d) If a matter is taken up by the Commission pursuant to § 2.786, a person who is not a party may, in the discretion of the Commission, respectively, be permitted to file a brief "amicus curiae". A person who is not a party and desires to file a brief must submit a motion for leave to do so